



RESOLUTION 10-2022

OF THE VILLAGE OF ASHVILLE



A REPEAL AND REPLACEMENT RESOLUTION FOR 09-2022 AUTHORIZING THE VILLAGE ADMINISTRATOR AND FISCAL OFFICER TO EXECUTE A GAS AGGREGATION REPLACEMENT AGREEMENT AND DECLARING AN EMERGENCY.

WHEREAS, THE VILLAGE OF ASHVILLE, OHIO has a fiduciary responsibility for the financial wellbeing of some areas of Ashville,

WHEREAS, the reduction of the cost for the fixed gas aggregation Ccf would be in the best interest of Ashville residents and businesses,

NOW, AND THEREFORE BE IT RESOLVED BY THE COUNCIL, ASHVILLE, PICKAWAY COUNTY, STATE OF OHIO THAT:

SECTION ONE

The Village Administrator and Fiscal Officer are hereby authorized enter into an agreement with Constellation NewEnergy-Gas Division, LLC, Exhibit A.

Upon acceptance by the Columbia Gas of Ohio the cost will be a fixed rate of \$0.389 per Ccf. will go to \$0.781 per Ccf. Definition of Ccf—the volume of 100 cubic feet (cf)

SECTION TWO

That this resolution is hereby declared to be an emergency resolution and necessary for the immediate preservation of the financial peace, health, safety, and general welfare of the citizens of the Village of Ashville.

Therefore, this resolution will take effect upon passage.

Motion Offered by: Nelson R. Embrey

Seconded to the Motion Offered by: Roger L. Clark

Upon roll call on the adoption of the resolution, the vote was as follow:

Council Member	Yes	No	Council Member	Yes	No	Council Member	Yes	No	Council Member	Yes	No	Council Member	Yes	No	Council	Yes	No
Roger L. Clark	<input checked="" type="checkbox"/>	<input type="checkbox"/>	Nelson R. Embrey	<input checked="" type="checkbox"/>	<input type="checkbox"/>	Randy S. Loveless	<input checked="" type="checkbox"/>	<input type="checkbox"/>	R. David Rainey	<input checked="" type="checkbox"/>	<input type="checkbox"/>	Matt Scholl	<input checked="" type="checkbox"/>	<input type="checkbox"/>	Steve Welsh	<input checked="" type="checkbox"/>	<input type="checkbox"/>

THIS 27TH DAY OF JUNE, 2022.

ATTEST:

April D. Grube, Clerk-Fiscal Officer

DATE: 6/28/2022

APPROVED:

Charles K. Wise, Mayor

DATE: 28 JUN 2022

Prepared: 05/10/2022
Revised Date: 06/23/2022
Review Date:

CERTIFICATE OF RECORDING OFFICER

I, the undersigned, hereby certify, that the foregoing is a true and correct copy of the resolution adopted by the Village of Ashville Council held on 27th day of June 2022, and that I am duly authorized to execute this certificate.

Clerk-Fiscal Officer

(TITLE)

(Original signature of April D. Grube)

Natural Gas Aggregation Agreement

Village of Ashville (“**Village**”), and Constellation NewEnergy – Gas Division, LLC (“**Constellation**”), entered into this Natural Gas Aggregation Agreement (the “**Agreement**”) as of September 1, 2022 (the “**Effective Date**”). Constellation and Village are sometimes referred to individually as a “**Party**” and collectively as the “**Parties**.”

Recitals:

- A. Village has obtained the required approvals and has enacted the necessary legislation in order to establish a natural gas aggregation program (the “Governmental Aggregation Program”) to offer negotiated rates to the Village’s residents and businesses.
- B. Constellation is in the business of selling natural gas and related services to residential, commercial, and industrial customers and other organizations and is a PUCO approved competitive natural gas supplier.
- C. Village has chosen Constellation to be the natural gas supplier for the Governmental Aggregation Program during the Term and in return Constellation agrees to supply natural gas to at the Aggregation Group.
- D. Village is or will be authorized to act on behalf of the Aggregation Group to purchase retail natural gas services.
- E. The Parties are familiar with governmental aggregation programs and recognize there are certain time constraints and limitations inherent with the enrollment process, and as such, are prepared to take commercially reasonable actions to secure prices for the Aggregation Group as the Village desires.

Now, therefore, in consideration of the mutual premises and promises of the parties, the adequacy and sufficiency of which are hereby acknowledged, the parties agree as follows:

1. DEFINED TERMS. Capitalized terms not otherwise defined in this Agreement will have the meanings set forth below. In this Agreement, unless the context otherwise indicates a contrary intention, the singular includes the plural and vice versa, and where any word or phrase is given a defined meaning any other part of speech or other grammatical form in respect of the word or phrase has a corresponding meaning.

“**Aggregation Group**” means all Aggregation Members.

“**Aggregation Member**” means an Eligible Consumer that participates in the Governmental Aggregation Program.

“**VEDO**” means Vectren Energy Delivery of Ohio, the local distribution company owning and/or controlling and maintaining the distribution system required for delivery of natural gas to Eligible Consumers.

“**Delivery Point**” means any existing and future points of interconnection between VEDO LDC’s transmission and/or distribution system and those of a third-party pipeline supplying natural gas to VEDO.

“**Eligible Consumers**” means Village residents and businesses that are approved to participate in the VEDO choice program.

“**Law**” means any law, rule, regulation, ordinance, statute, judicial decision, administrative order, rule of the public utilities commission, public service commission, independent system operator, regional transmission organization, or similar state commission, agency or body having jurisdiction over the Parties, natural gas transactions, or natural gas distribution systems.

“**NYMEX**” means the New York Mercantile Exchange, or its successor.

“**PUCO**” means the Public Utilities Commission of Ohio.

“**Trigger**” means the request by Village for Constellation to financially set/lock-in the value of the NYMEX component of the Customers’ price for the remainder of the term of the Customer Agreements.

“**Utility**” means INSERT LDC FULL NAME, the local distribution company owning and/or controlling and maintaining the distribution system required for delivery of natural gas to Eligible Consumers.

2. CONSTELLATION AS THE EXCLUSIVE SUPPLIER FOR NATURAL GAS. Village is a PUCO certified governmental aggregator and is authorized to arrange for the supply of retail natural gas services on behalf of the Aggregation Group. Village agrees that Constellation will be the exclusive provider of retail natural gas supply services for the Aggregation Group during the Term.

3. TERM. This Agreement shall commence on the Effective Date and, unless terminated earlier as otherwise provided in this Agreement, will continue for a period of thirty-six (36) months (the “**Term**”). Upon expiration of the Term, this Agreement may be extended upon the mutual agreement of the Parties. Village shall have the right to begin negotiations with Constellation and other natural gas suppliers during the Term to ensure a seamless transition and continuation of the Governmental Aggregation Program at the end of the Term. If Village chooses a new supplier during the Term as the gas supplier for a following term, Constellation shall cooperate with Village and the new supplier in a timely manner to provide

a list of Customers, who according to Constellation's records are participating in the Governmental Aggregation Program at the time such request is made. The Village will have the right to contract with a new supplier during the Term, but only for natural gas flow following the Term.

4. CONSTELLATION SCOPE OF WORK.

(a) Constellation is responsible for obtaining an Eligible Consumer list from the Utility and/or any other source Constellation deems appropriate. Village will cooperate with Constellation to assemble and verify the Eligible Consumer list. Village will share its resources to help mitigate the cost of assembling and verifying the Eligible Consumer list, including giving notice to the previous supplier of its intent to retain Constellation for the Governmental Aggregation Program and obtaining the list of Eligible Consumers who, according to the previous supplier's records, are participating in the Governmental Aggregation Program at the time such request is made. Both the Village and Constellation must approve any Eligible Consumer list to be used for any mailing.

(b) Constellation will implement the initial and ongoing opt-out enrollment procedures for Eligible Consumers and will develop and mail all program announcements and materials at its expense.

(c) Constellation shall send one (1) opt-out mailing to Eligible Consumers regarding participation in the Governmental Aggregation Program. Constellation and Village may mutually agree to send additional mailings. After the initial opt-out mailing, in the month of September of each year, October billing cycle, Constellation shall cause a refresh mailer to be mailed to all Eligible Customers who have not previously opted-out.

(d) The addition of Aggregation Members after the initial opt-out period established by Constellation shall be in the sole discretion of Constellation. Aggregation Members that move from one physical address or meter location to another within the Village may continue to participate in the Governmental Aggregation Program by contacting Constellation and providing reasonable notice of move and other relevant information needed by Constellation to verify such move.

(e) Constellation shall be responsible for the payment of any switching fee imposed by the Utility resulting from an Aggregation Member's switch to Constellation in connection with participation in the Governmental Aggregation Program.

(f) In the event PUCO requires information or documents from the Village regarding the Governmental Aggregation Program, Constellation agrees to assist in compiling such information to the extent Constellation has access to such information.

(g) If at any time during this agreement Village approves opt-in aggregation, the Parties will work together to implement a mutually agreeable opt-in program for all Eligible Consumers within the Village. If Village and Constellation agree to implement an opt-in aggregation program, Village will exclusively endorse Constellation for such opt-in aggregation program.

5. CONSTELLATION NATURAL GAS SUPPLY OFFER(S). Constellation shall make the following offer available to Eligible Consumers during the Initial Enrollment Period.

During the Term the monthly rate will be \$ 7.81 per Mcf. Aggregation Members will not be charged an early termination fee by Constellation for leaving the program prior to the end of the Term.

6. NATURAL GAS SUPPLY SERVICE. Constellation will supply natural gas to the Aggregation Group in accordance with the General Terms and Conditions of service (that will be substantially in the form attached hereto as Exhibit A) and all applicable rules and regulations, including applicable PUCO and Utility rules. Constellation will deliver natural gas to the Delivery Point. Title and risk of loss related to the natural gas transfer to the Aggregation Member at the Delivery Point, and the Aggregation Member is responsible for all transmission, distribution, and other costs (including taxes and other fees) related to the final delivery to the facilities to which the natural gas account(s) relate as well as the Aggregation Member's use of the natural gas. While Constellation will arrange for the delivery of natural gas to the Aggregation Member by the Utility, Constellation will have no liability or responsibility for matters within the control of the Utility, which include maintenance of pipelines and systems, service interruptions, loss of service, quality of the natural gas, deterioration of services, or meter readings.

7. ELIGIBLE CONSUMER INFORMATION. Village will provide authorization and documentation in order for the Utility to release to Constellation any necessary load forecast information and Eligible Consumer information.

8. USE OF VILLAGE'S NAME AND LOGO. Village hereby agrees to allow Constellation to use Village's name and logo (if any) in any and all enrollment materials (including electronic media and Internet) and press releases for publicity and/or marketing purposes. The Village will have the right to review and approve all such materials that utilize the Village's name and/or logo prior to distribution. Additionally, Village authorizes Constellation to represent that Constellation is the Village's exclusive provider of retail natural gas supply for the term of this Agreement. Village shall not release any promotional material referencing Constellation (including press releases) without Constellation's prior approval.

9. TERMINATION. Upon the occurrence of a Regulatory Event, the adversely affected Party shall give notice to the other Party that a Regulatory Event has occurred. Upon such notice, the Parties shall enter into negotiations to amend or replace this Agreement so that the adversely affected Party is restored as nearly as possible to the economic positions it would have been in but for the occurrence of the Regulatory Event. If the Parties are unable to agree upon an amendment to the Agreement within sixty (60) days, the adversely affected Party shall have the right, upon fifteen (15) days written notice, to terminate this Agreement. The following events constitute a "Regulatory Event":

(i) Illegality. If, due to the adoption of, or change in, any applicable law, or in the interpretation of any applicable law by any judicial or governmental authority with competent jurisdiction, it becomes unlawful for a Party to perform any obligation under this Agreement.

(ii) Adverse Government Action. If (a) any regulatory agency or court having jurisdiction over the Agreement requires a material change to the terms of the Agreement that adversely and materially affects a Party, or (b) there is any regulatory or judicial action that adversely impacts a Party's performance of any of its obligations under the Agreement.

10. FORCE MAJEURE. "Force Majeure" means an event that is not within the reasonable control of the Party claiming Force Majeure ("**Claiming Party**"), and that by the exercise of due diligence, the Claiming Party is unable to overcome in a commercially reasonable manner, and such event will not be deemed a breach or default under this Agreement. Force Majeure includes, but is not limited to, acts of God; fire; war; terrorism; flood; earthquake; civil disturbance; sabotage; facility failure; curtailment, disruption or interruption of firm transportation service by the transporter (including without limitation as the result of an operational flow order) or supply into Constellation's supply pools; declaration of emergency by the Utility; regulatory, administrative, or legislative action, or action or restraint by court order or governmental authority; or any act or omission of a third party not under the control of the Claiming Party (including without limitation the Utility). Notwithstanding any other provision of this Agreement, where a Party is unable to carry out any obligation under this Agreement due to a Force Majeure event (other than a payment obligation, which will not be excused for Force Majeure), this Agreement will remain in effect but such obligation will be suspended for the period necessary as a result of the Force Majeure, provided that: (i) to the extent reasonably possible, the Claiming Party gives the other Party prompt written notice describing the particulars of the Force Majeure, including but not limited to, the nature and date of the occurrence and the expected duration of the Force Majeure; (ii) the suspension of performance is of no greater scope and of no longer duration than is required by the Force Majeure; and (iii) the Claiming Party uses commercially reasonable efforts to remedy its inability to perform.

11. CHOICE OF LAW; ATTORNEY FEES AND EXPENSES. The validity, performance, and construction of this Agreement will be governed and interpreted in accordance with the laws of Ohio, without giving effect to conflict of law principles. EACH PARTY HEREBY IRREVOCABLY AND UNCONDITIONALLY WAIVES ANY RIGHT SUCH PARTY MAY HAVE TO A TRIAL BY JURY IN RESPECT OF ANY ACTION, SUIT OR PROCEEDING DIRECTLY OR INDIRECTLY ARISING OUT OF OR RELATING TO THIS AGREEMENT OR THE TRANSACTIONS CONTEMPLATED BY THIS AGREEMENT. If either Party pursues court action to enforce its rights under this Agreement, the non-prevailing Party shall promptly reimburse the prevailing Party for all its reasonable attorney fees, expenses and costs.

12. ASSIGNMENT. Neither Party may assign its rights or obligations under this Agreement without written consent from the other party; provided, however, Constellation may assign any of its rights and obligations under this Agreement without consent to an Affiliate or to any person or entity succeeding to all or substantially all of Constellation's assets or business or the division or region of Constellation to which this Agreement relates or into which Constellation is merged or otherwise combined or reorganized; provided the succeeding entity agrees to be bound to this Agreement.

13. ENTIRE AGREEMENT; AMENDMENT. This Agreement embodies the Parties' entire agreement and understanding, supersedes all prior agreements and understandings (whether written or oral) regarding the subject matter of this Agreement, and may not be contradicted by any prior or contemporaneous oral or written agreement. A facsimile copy of either Party's signature will be considered an original for all purposes under this Agreement, and each Party will provide its original signature upon request. No amendment to this Agreement will be valid or given any effect unless signed by both Parties. Any alteration, addition, or modification made by Association to the preprinted terms of this Agreement shall be void and without any effect. The section headings used in this Agreement are for reference purposes only and will in no way affect the meaning of the provisions of this Agreement.

14. WAIVER AND SEVERABILITY. Failure to provide notice of, or object to, any default under this Agreement will not operate or be construed as a waiver of any future default, whether like or different in character. If any portion of this Agreement, or application thereof to any person or circumstance, is held legally invalid, the remainder will not be affected and will be valid and enforced to the fullest extent permitted by law and equity, and there will be deemed substituted for the invalid provisions such provisions as will most nearly carry out the mutual intent of the Parties as expressed in this Agreement to the fullest extent permitted by applicable Law.

15. NOTICES. To be effective, all notices must be in writing delivered by hand, by first class mail, postage prepaid, by electronic facsimile transmission (with verification of delivery), or by express carrier to the addresses provided below. A Party may change its address by providing notice of such change in accordance herewith.

Constellation:
 Constellation NewEnergy – Gas Division, LLC
 Attn: Contract Administration
 9400 Bunsen Parkway, Suite 100
 Louisville, KY 40220
 Phone: (502) 426-4500
 Fax: (502) 214-6381

Village:
 Village of Ashville
 Attn: Village Administrator
 Address: 200 Station Street East
 Ashville, OH 43103
 Phone: 740/983-6367
 Fax: 740/983-4703
 Email: fchristman@ashvilleohio.gov

16. MUTUAL REPRESENTATIONS AND WARRANTIES. Each Party warrants and represents to the other the following: (a) it is duly organized, validly operating and in good standing under the laws of the jurisdiction of its formation; (b) it is authorized and qualified to do business in the jurisdictions necessary to perform under this Agreement; (c) the execution, delivery and performance of this Agreement are duly authorized and do not violate any governing documents, contracts to which it is a party or applicable Law; (d) there is no material event(s) or other agreement(s) which would impair that Party's right, authority or ability to execute this Agreement and otherwise consummate the transactions contemplated by this Agreement, or which would represent any conflict of interest with the Village, any Eligible Consumer or Constellation and (e) all governmental and other authorizations, approvals, consents, notices and filings that are required with respect to this Agreement have been obtained or submitted and it has complied with all terms and conditions of such authorizations, approvals, consents, notices and filings.

17. ADDITIONAL REPRESENTATIONS, WARRANTIES AND COVENANTS OF EACH PARTY. Constellation warrants and represents that it is a PUCO approved competitive retail natural gas supplier. Village warrants, represents and covenants, as of the Effective Date, that: (a) Village's execution and delivery of this Agreement, and its performance of its obligations hereunder, are in furtherance, and not in violation, of the municipal purposes for which the Village is organized pursuant to its authorizing statutes and regulations; (b) Village has obtained all approvals needed and has complied with all applicable rules, regulations and ordinances in order to lawfully execute this Agreement; and (c) Village is a PUCO certified governmental aggregator and will maintain such certification throughout the Term.

18. DEFAULT; TERMINATION FOR DEFAULT. An "Event of Default" means any one of the following: (a) any representation or warranty made by a Party in this Agreement proves to have been incorrect, false or misleading when made or ceases to remain true during the term of this Agreement, if not cured within five business days after written notice from the other Party; or (b) a Party's breach of this Agreement or the failure by a Party to perform any obligation set forth in this Agreement and where within five (5) business days after receipt of written notice from the other Party it is not cured in circumstances where such failure or breach is curable (if the failure or breach is not curable no cure notice need be provided). If an Event of Default occurs, the non-defaulting Party may, in its sole discretion, terminate this Agreement effective upon written notice to the defaulting Party. EXCEPT AS OTHERWISE EXPRESSLY PROVIDED HEREIN, VILLAGE'S RIGHT TO TERMINATE THIS AGREEMENT SHALL BE THE SOLE REMEDY AVAILABLE TO VILLAGE FOR ANY BREACH OF THIS AGREEMENT BY CONSTELLATION.

19. INDEMNIFICATION. Each Party shall hold harmless, as well as defend and indemnify, the other Party and its affiliates, and all of their respective officers, directors, members, shareholders, associates, employees, agents, representatives, successors and assigns from and against any and all liabilities, damages, claims, charges, fees or taxes, penalties, fines, costs and expenses (including attorneys' fees) incurred or claimed and resulting from or related to: (a) any breach or default of the indemnifying Party's obligations under this Agreement; or (b) any of the indemnifying Party's negligent acts or omissions or willful misconduct, or any such act, omission or misconduct on the part of its employees or agents. These indemnification obligations shall survive any termination of this Agreement.

20. LIMITATION OF LIABILITY. Notwithstanding any other provision of this Agreement to the contrary, the entire liability of either Party for any and all claims of any kind arising from or relating to this Agreement will be limited to direct actual damages only, subject in all cases to an affirmative obligation on the part of the claiming Party to mitigate its damages. NEITHER PARTY SHALL BE LIABLE TO THE OTHER FOR ANY SPECIAL, INDIRECT, INCIDENTAL, EXEMPLARY, CONSEQUENTIAL OR PUNITIVE DAMAGES OF ANY CHARACTER, IRRESPECTIVE OF WHETHER CLAIMS OR ACTIONS FOR SUCH DAMAGES ARE BASED UPON CONTRACT, WARRANTY, NEGLIGENCE, STRICT LIABILITY OR ANY OTHER REMEDY AT LAW OR EQUITY. The provisions of this Section 20 shall survive the expiration or termination of this Agreement for any reason.

0. NO WARRANTY. VILLAGE ACKNOWLEDGES AND AGREES THAT NO WARRANTY, DUTY, OR REMEDY, WHETHER EXPRESSED, IMPLIED, OR STATUTORY, IS GIVEN OR INTENDED TO ARISE OUT OF THIS AGREEMENT EXCEPT AS OTHERWISE EXPRESSLY STATED HEREIN, AND CONSTELLATION SPECIFICALLY

DISCLAIMS ALL OTHER WARRANTIES, EXPRESSED OR IMPLIED, INCLUDING ANY WARRANTY OF MERCHANTABILITY OR FITNESS FOR A GENERAL OR PARTICULAR PURPOSE OR USE.

22. NO THIRD-PARTY BENEFICIARIES. This Agreement is for the sole and exclusive benefit of the Parties hereto, and no third party will have any rights under this Agreement whatsoever.

23. RELATIONSHIP OF THE PARTIES. Constellation is an independent contractor under this Agreement, and nothing contained herein shall be construed as creating a relationship of employer and employee or principal and agent between the Parties.

24. ACCEPTANCE. *This Agreement shall not be binding or enforceable against Constellation unless and until signed by an authorized representative of Constellation.*

IN WITNESS WHEREOF, the Parties have caused this Agreement to be executed by their duly authorized representatives as of the Effective Date.

Constellation NewEnergy – Gas Division, LLC

Village of Ashville

By: _____
Name: _____
Title: _____

By: 
Name: Franklin Christman _____
Title: Village Administrator _____

By: 
Name: April Grube _____
Title: Fiscal Officer _____

Approved as to form: 
Name: Aaron M. Glasgow, Esquire _____
Title: Solicitor

GENERAL TERMS AND CONDITIONS

Generally, the words "you" and "your" refer to the Customer and the words "we" and "us" refer to Constellation, unless the context clearly requires otherwise.

1. Purchase and Sale of Natural Gas. If you do not "opt-out" by _____ pursuant to these General Terms and Conditions (the "Agreement"), you will purchase from us on an exclusive basis, and we will take all reasonable action to supply or cause to be supplied, all of your natural gas requirements at the price and for your accounts ("Account(s)"). Pursuant to the Agreement, you authorize us to (i) enroll your Account(s) with your Utility so that we can supply the Account(s), (ii) aggregate your Account(s) with those of other customers of Constellation or its affiliates, (iii) request and receive usage and other information from your Utility with respect to the Account(s) and (iv) enter into agreements with your Utility as necessary under the Utility's tariff to facilitate supply of the Account(s). You agree to cooperate with Constellation to ensure enrollment of your Account(s) in a timely manner. You give us the authority to choose the source of your natural gas supply. Your Utility will continue to deliver your natural gas and provide billing and other services to you. You acknowledge that such transportation service is subject to regulations set forth in your Utility's tariff. **Supply of natural gas under this Agreement is conditioned upon (1) our verification of the accuracy of all information that you provide to us, including information regarding your natural gas usage and the Account(s) and (2) acceptance of enrollment of your Account(s) by the Utility.**

2. Term. This term of the Agreement is effective when enrollment occurs with the Utility with Constellation as your natural gas supplier, subject to your rescission right set forth under "Customer's Rescission Right" below. Subject to successful enrollment of your Account(s), we will supply the Account(s) with natural gas from the first regularly scheduled Utility meter read date after your Utility switches you to Constellation ("Start Date"), which we estimate will be in the month of September 2022 meter read (October 2022 billing cycle). We will supply your Account(s) through the month of August 2025 meter read (September 2025 billing cycle). If the Village of Ashville Natural Gas Pricing Program continues beyond August 2025 meter read (September 2025 billing cycle) with Constellation as the supplier, Constellation will send you a notice of renewal including, but not limited to, notice of the new Village of Ashville Natural Gas Pricing Program, notice of your right to opt-out of the Village of Ashville Natural Gas Pricing Program, and any other changes. The opt-out mailing shall include a provision for return of a post card or similar notice to Constellation, to be returned no later than twenty-one (21) days from the post-marked date, and receipt of the opt-out mailing post-marked before the opt-out deadline has elapsed shall count as timely sent. You are entitled to opt-out of Village of Ashville Natural Gas Pricing Program at least every two years from the Start Date of the Village of Ashville Natural Gas Pricing Program, without a penalty. If for any reason you do not wish to continue, you may cancel this Agreement as provided in Section 4 below. If you do not cancel, this Agreement will renew, and any changes to the General Terms and Conditions will become effective for the term provided in the renewal notice.

3. Price. Village of Ashville Natural Gas Pricing Program. Through August 2025 meter read (September 2025 billing cycle), your price will be a fixed rate of \$ 7.81 per Mcf. For the remainder of the term of this Agreement, your price will be either fixed or variable, as determined by the Village of Ashville. **IN THIS PROGRAM, YOU HEREBY APPOINT THE VILLAGE OF ASHVILLE AS YOUR AGENT FOR NATURAL GAS SUPPLY PRICING DECISIONS AND AGREE THAT VILLAGE OF ASHVILLE HAS THE EXCLUSIVE RIGHT TO MAKE NATURAL GAS SUPPLY PRICING DECISIONS ON YOUR BEHALF WHILE THIS AGREEMENT REMAINS IN EFFECT.**

Note: The fixed or variable price includes (i) all related interstate pipeline charges required to deliver gas to the Delivery Point, plus (ii) administrative costs and fees. In addition to the fixed or variable price, you will also pay the Utility's service charges.

4. Termination. You may terminate this Agreement without penalty at any time for any reason by providing notice to Constellation. Please note that once enrolled, it may take one to two billing cycles beyond the current billing cycle for the cancellation to be effective, as the effective date of all cancellations are subject to your Utility's guidelines. Should you fail to pay any Utility invoice or fail to meet any agreed-upon payment arrangement, your service and this Agreement may be automatically terminated in accordance with the Utility's tariffs. In addition, this Agreement will terminate if (i) the requested service location is not served by the Utility, (ii) you move outside the Utility's service area or to an area not served by Constellation, (iii) we return you to the Utility's sales service pursuant to any termination of this agreement by us, or (iv) you cancel your enrollment with us pursuant to your rescission right provided below. You may terminate this Agreement without penalty if you relocate outside the service territory of the Utility.

5. Customer's Rescission Right. Upon processing your enrollment, the Utility will send you a confirmation letter, which is notice of the transfer of your supply to Constellation. You have a seven (7) business day period from the postmark date of the Utility's confirmation letter during which time you may cancel your enrollment, without penalty, by calling the Utility's toll-free number provided in the confirmation letter or by providing written notice to the Utility, which will be effective as of the postmark date.

6. Your Invoice. You will be invoiced by the Utility monthly for all charges applicable to your natural gas usage, including the rates set forth herein, applicable Taxes (which are passed through to you) and all applicable Utility customer charges and franchise fees. You authorize us to act as your payment agent if deemed necessary by us to facilitate consolidated billing. You have the right to request up to twenty-four (24) months of your payment history for services rendered by Constellation without charge.

7. Switching. The Utility may charge a switching fee in accordance with its tariff when you change your natural gas supplier to Constellation. If the Utility charges a switching fee when you change your natural gas supplier to Constellation in accordance with this Agreement, Constellation agrees to pay such switching fee. Constellation will not separately charge a switching fee. If you voluntarily return to the Utility after switching to a competitive supplier, you may be charged a price other than the Utility's regulated sales service rate.

8. Customer Service. For questions or complaints about our services, contact us at our Customer Care department by calling toll-free , 24 hours a day, seven days a week, by e-mail at VST@constellation.com, online at www.constellation.com, or in writing at Constellation NewEnergy – Gas Division, LLC, 1716 Lawrence Drive, De Pere WI, 54115. If your complaint is not resolved after you have called Constellation, or for general utility information, you may contact the Public Utilities Commission of Ohio (“PUCO”) for assistance at (800) 686-7826 (toll free) or for TTY at (800) 686-1570 (toll free) from 8:00 a.m. to 5:00 p.m. weekdays, or at www.puco.ohio.gov. Residential customers may also contact the Ohio Consumers’ Counsel for assistance with complaints and utility issues at (877) 742-5622 (toll free) from 8:00 a.m. to 5:00 p.m. weekdays, or at www.pickocc.org.

9. Definitions. “**Delivery Point**” means any existing and future points of interconnection between your Utility transmission and/or distribution system and those of a third-party pipeline supplying natural gas to the Utility. “**Taxes**” means all taxes, duties, fees, levies, premiums or any other charges of any kind, whether direct or indirect, relating to the sale, purchase or delivery of natural gas, together with all interest, penalties or other additional amounts imposed, including but not limited to gross receipts, sales, consumption, use, value added, per Mcf, commercial activity or other privilege tax, and any other tax (whether in effect as of the effective date of this agreement or thereafter) imposed by any governmental entity. “**Utility**” means your local natural gas distribution utility owning and/or controlling and maintaining the distribution system required for delivery of natural gas to the Account(s). “**Market Price**” means the current price at which natural gas can be bought or sold by suppliers. “**Market Trend**” means the tendency of natural gas market prices to move in a particular direction over time.

10. Notices. All notices will be in writing and delivered by hand, first class mail, or by express carrier to our respective business addresses. Either of us can change our address by notice to the other pursuant to this paragraph.

11. Changes in law, market structure, and/or your natural gas needs or classifications. If a change in or implementation of law, rule, regulation, ordinance, statute, judicial decision, administrative order, Utility tariffs, or the like causes our costs under this Agreement to increase, we will have the right to pass such increased costs on to you. The changes described in this Section may change any or all the charges described in this Agreement.

12. Events beyond either of our reasonable control. If something happens that is beyond either of our reasonable control that prevents either of us from performing our respective obligations under this Agreement, then whichever one of us cannot perform will be relieved from performance until the situation is resolved. Examples of such events include: acts of God, fire, flood, hurricane, war, terrorism; labor disputes; declaration of emergency by a governmental entity or the Utility; curtailment, disruption or interruption of natural gas transmission, distribution or supply; regulatory, administrative, or legislative action, or action or restraint by court order or other governmental entity; and actions taken by third parties not under your or our control, such as the Utility. However, such events shall not in any event excuse any failure to make payments due in a timely manner for natural gas supplied to you. The parties shall notify each other immediately of an operational flow or curtailment order from the applicable pipelines or Utility and shall take all required steps to comply with such orders.

13. Delivery Point and indemnification obligations. We will deliver natural gas to the Delivery Point. Title and risk of loss related to the natural gas transfer to you at the Delivery Point, and you are responsible for all transmission, distribution, and other costs (including Taxes and other fees) related to the final delivery to the facilities to which the Account(s) relate as well as your use of the natural gas. While we will arrange for the delivery of natural gas to you by your Utility, we will have no liability or responsibility for matters within the control of the Utility, which include maintenance of pipelines and systems, service interruptions, loss of service, quality of the natural gas, deterioration of services, or meter readings. EACH PARTY (THE “INDEMNIFYING PARTY”) WILL DEFEND, INDEMNIFY AND HOLD THE OTHER PARTY HARMLESS FROM ANY AND ALL CLAIMS (INCLUDING CLAIMS FOR PERSONAL INJURY, DEATH, OR PROPERTY DAMAGE), LOSSES, EXPENSES (INCLUDING REASONABLE ATTORNEYS’ FEES), DAMAGES, SUITS, CAUSES OF ACTION AND JUDGMENTS OF ANY KIND ARISING HEREUNDER WHILE TITLE AND RISK OF LOSS ARE VESTED IN THE INDEMNIFYING PARTY.

14. Limitation on Liability. IN NO EVENT WILL EITHER PARTY OR ITS AFFILIATES, OWNERS, OFFICERS OR DIRECTORS BE LIABLE FOR ANY CONSEQUENTIAL, EXEMPLARY, SPECIAL, INCIDENTAL OR PUNITIVE DAMAGES, INCLUDING, WITHOUT LIMITATION, LOST OPPORTUNITIES OR LOST PROFITS. Each party’s total liability related to this Agreement, whether arising under breach of contract, tort, strict liability or otherwise, will be limited to direct, actual damages. Each party agrees to use commercially reasonable efforts to mitigate the damages it may incur. NO WARRANTY, DUTY, OR REMEDY, WHETHER EXPRESSED, IMPLIED OR STATUTORY, ON CONSTELLATION’S PART IS GIVEN OR INTENDED TO ARISE OUT OF THIS AGREEMENT, INCLUDING ANY WARRANTY OF MERCHANTABILITY OR FITNESS FOR A GENERAL OR SPECIFIC PURPOSE OR USE.

15. Governing Law/Venue. THIS AGREEMENT WILL BE GOVERNED BY AND INTERPRETED IN ACCORDANCE WITH THE LAWS OF THE STATE OF OHIO WITHOUT GIVING EFFECT TO ANY CONFLICTS OF LAW PROVISIONS. WE ALSO BOTH AGREE IRREVOCABLY AND UNCONDITIONALLY TO WAIVE ANY RIGHT TO A TRIAL BY JURY OR TO INITIATE OR BECOME A PARTY TO ANY CLASS ACTION CLAIMS WITH RESPECT TO ANY ACTION, SUIT OR PROCEEDING DIRECTLY OR INDIRECTLY ARISING OUT OF OR RELATING TO THIS AGREEMENT OR THE TRANSACTIONS CONTEMPLATED BY THIS AGREEMENT.

16. Relationship of Parties. We are an independent contractor, and nothing in this Agreement establishes a joint venture, fiduciary relationship, partnership or other joint undertaking. You will **not rely, and have not relied**, on us in evaluating the advantages or disadvantages of any specific product or service, predictions about future energy prices, or any other matter under this Agreement. Your decision to enter into this Agreement and any other decisions or actions you may take are and will be based solely upon your own analysis (or that of your advisors) and not on information or statements from us. There is no guarantee that the program you chose will guarantee any price advantage or savings.

17. Confidentiality. Consistent with applicable regulatory requirements, we will hold in confidence all information obtained by us from you related to the provision of services under this Agreement and which concern your energy characteristics and use patterns, except that we may disclose such information to our affiliates (excluding Baltimore Gas & Electric, a regulated utility) and such affiliates' employees, agents, advisors, and independent contractors. Other than for operation, maintenance, assignment and transfer of your Account(s), pursuant to a court or PUCO order or pursuant to a PUCO rule, we will not release your account number or, other than for credit checking and credit reporting, if applicable, your social security number, without your prior written consent.

18. Miscellaneous Provisions. If in any circumstance we do not provide notice of, or object to, any default on your part, such situation will not constitute a waiver of such default or any future default of any kind. If any of this Agreement is held legally invalid, the remainder will not be affected and will be valid and enforced to the fullest extent permitted by law and equity, and there will be deemed substituted for the invalid provisions such provisions as will most nearly carry out our mutual intent as expressed in this agreement. You may not assign or otherwise transfer any of your rights or obligations under this Agreement without our prior written consent and any such attempted transfer will be void. We may assign our rights and obligations under this Agreement to a qualified natural gas supplier and will provide you with prior written notice of any such assignment. This Agreement contains the entire agreement between both of us, supersedes any other agreements, discussions or understandings (whether oral or written) regarding the subject matter of this agreement, and may not be contradicted by any prior or contemporaneous oral or written agreement. A facsimile copy with your signature will be considered an original for all purposes. No amendment to this Agreement will be valid or given any effect unless signed by both of us. Applicable provisions of this Agreement will continue in effect after termination or expiration of this Agreement to the extent necessary, including those for billing adjustments and payments, indemnification, limitations of liability, and dispute resolution. Constellation shall have the right to set-off and net any amounts owed to Customer against any amounts owed to it by Customer under this Agreement or any other agreement. This Agreement is a "forward contract" and Constellation is a "forward contract merchant" under the U.S. Bankruptcy Code, as amended. Further, we are not providing advice regarding "commodity interests", including futures contracts and commodity options or any other matter, which would cause us to be a commodity trading advisor under the U.S. Commodity Exchange Act, as amended ("CEA"). Customer's purpose in entering into this Agreement is not speculation, but rather price volatility control and/or budget management for procurement of natural gas for one or more of its facilities. Customer represents that it qualifies as an "eligible contract participant" as the same is defined under the CEA. The terms of any purchase order (PO) you send to us or any alterations, additions, or modifications you make to the preprinted terms of this Agreement shall be void and without any effect unless and only to the extent we agree in writing to such alterations, additions, or modifications.

IN THE EVENT OF AN EMERGENCY OR SERVICE INTERRUPTION, CONTACT YOUR UTILITY AT:

Utility Name	Utility Abbreviation	Contact Number
Vectren Energy Delivery of Ohio	VEDO	(800) 227-1376